

**ASSEMBLY BILL**

**No. 1200**

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**Introduced by Assembly Member Hayashi**

February 27, 2009

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An act to amend Section 758.5 of the Insurance Code, relating to motor vehicle insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1200, as introduced, Hayashi. Motor vehicle insurance: direct repair programs.

Existing law prohibits insurers from requiring that an automobile be repaired at a specific automotive repair dealer. Under existing law, an insurer may suggest or recommend a specific automotive repair dealer under certain specified circumstances.

This bill would state that nothing in that provision prohibits an insurer from providing a claimant with truthful, nondeceptive information regarding the benefits of selecting a specific automotive repair dealer, including, but not limited to, the availability and duration of repair warranties.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 758.5 of the Insurance Code is amended
- 2     to read:
- 3     758.5. (a) No insurer shall require that an automobile be
- 4     repaired at a specific automotive repair dealer, as defined in Section
- 5     9880.1 of the Business and Professions Code. *Nothing in this*

1 *section prohibits an insurer from providing a claimant with*  
2 *truthful, nondeceptive information regarding the benefits of*  
3 *selecting a specific automotive repair dealer, including, but not*  
4 *limited to, the availability and duration of repair warranties.*

5 (b) (1) No insurer shall suggest or recommend that an  
6 automobile be repaired at a specific automotive repair dealer unless  
7 either of the following applies:

8 (A) A referral is expressly requested by the claimant.

9 (B) The claimant has been informed in writing of the right to  
10 select the automotive repair dealer.

11 (2) If the recommendation is accepted by the claimant, the  
12 insurer shall cause the damaged vehicle to be restored to its  
13 condition prior to the loss at no additional cost to the claimant  
14 other than as stated in the policy or as is otherwise allowed by law.  
15 If the recommendation of an automotive repair dealer is done  
16 orally, and if the oral recommendation is accepted by the claimant,  
17 the insurer shall provide the information contained in this  
18 paragraph, as noted in the statement below, to the claimant at the  
19 time the recommendation is made. The insurer shall send the  
20 written notice required by this paragraph within five calendar days  
21 from the oral recommendation. The written notice required by this  
22 paragraph shall include the following statement plainly printed in  
23 no less than 10-point type:

24 “WE ARE PROHIBITED BY LAW FROM REQUIRING THAT  
25 REPAIRS BE DONE AT A SPECIFIC AUTOMOTIVE REPAIR  
26 DEALER. YOU ARE ENTITLED TO SELECT THE AUTO  
27 BODY REPAIR SHOP TO REPAIR DAMAGE COVERED BY  
28 US. WE HAVE RECOMMENDED AN AUTOMOTIVE REPAIR  
29 DEALER THAT WILL REPAIR YOUR DAMAGED VEHICLE.  
30 IF YOU AGREE TO USE OUR RECOMMENDED  
31 AUTOMOTIVE REPAIR DEALER, WE WILL CAUSE THE  
32 DAMAGED VEHICLE TO BE RESTORED TO ITS  
33 CONDITION PRIOR TO THE LOSS AT NO ADDITIONAL  
34 COST TO YOU OTHER THAN AS STATED IN THE  
35 INSURANCE POLICY OR AS OTHERWISE ALLOWED BY  
36 LAW. IF YOU EXPERIENCE A PROBLEM WITH THE REPAIR  
37 OF YOUR VEHICLE, PLEASE CONTACT US IMMEDIATELY  
38 FOR ASSISTANCE.”

39 (c) Except as provided in subparagraph (A) of paragraph (1) of  
40 subdivision (b), after the claimant has chosen an automotive repair

1 dealer, the insurer shall not suggest or recommend that the claimant  
2 select a different automotive repair dealer.

3 (d) Any insurer that, by the insurance contract, suggests or  
4 recommends that an automobile be repaired at a particular  
5 automotive repair dealer shall also do both of the following:

6 (1) Prominently disclose the contractual provision in writing to  
7 the insured at the time the insurance is applied for and at the time  
8 the claim is acknowledged by the insurer.

9 (2) If the claimant elects to have the vehicle repaired at the shop  
10 of his or her choice, the insurer shall not limit or discount the  
11 reasonable repair costs based on charges that would have been  
12 incurred had the vehicle been repaired by the insurer's chosen  
13 shop.

14 (e) For purposes of this section, "claimant" means a first-party  
15 claimant or insured, or a third-party claimant who asserts a right  
16 of recovery for automotive repairs under an insurance policy.

17 (f) The powers of the commissioner to enforce this section shall  
18 include those granted in Article 6.5 (commencing with Section  
19 790) of Chapter 1 of Part 2 of Division 1.